

Michael H. Simon, OSB No. 860908  
[MSimon@perkinscoie.com](mailto:MSimon@perkinscoie.com)  
Sarah J. Crooks, OSB No. 971512  
[SCrooks@perkinscoie.com](mailto:SCrooks@perkinscoie.com)  
PERKINS COIE LLP  
1120 N.W. Couch Street, Tenth Floor  
Portland, OR 97209-4128  
Telephone: 503.727.2000  
Facsimile: 503.727.2222

Attorneys for Defendant Qwest Corporation

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION**

**NICKOLAS FACAROS,**

Case No. 10-6343-HO

Plaintiff,

**DEFENDANT'S MOTION TO DISMISS**

v.

Request for Oral Argument

**QWEST CORPORATION**, a Colorado  
Corporation,

Defendant.

Pursuant to Local Rule 7.1(a), defendant, Qwest Corporation ("Qwest"), certifies that the parties made a good faith effort through telephone conferences to resolve the dispute but have been unable to do so.

Pursuant to Federal Rule of Civil Procedure 9(b), Qwest moves to dismiss the Complaint and each of the claims alleged for failure to allege the fraud allegations with sufficient specificity.

1- DEFENDANT'S MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Qwest further moves to dismiss the Complaint and each of the claims alleged for failure to state a claim upon which relief can be granted.

This Motion is supported by the pleadings, the accompanying Memorandum of Law and the Declaration of Dale VanGulick.

DATED: December 13, 2010

**Respectfully submitted,**

**PERKINS COIE LLP**

By: *s/ Sarah J. Crooks*

Michael H. Simon, OSB No. 860908

[MSimon@perkinscoie.com](mailto:MSimon@perkinscoie.com)

Sarah J. Crooks, OSB No. 971512

[SCrooks@perkinscoie.com](mailto:SCrooks@perkinscoie.com)

1120 N.W. Couch Street, Tenth Floor

Portland, OR 97209-4128

Telephone: 503.727.2000

Facsimile: 503.727.2222

Attorneys for Defendant Qwest Corporation